

PREHEARING CONFERENCE
BEFORE THE
CALIFORNIA ENERGY RESOURCES CONSERVATION
AND DEVELOPMENT COMMISSION

In the Matter of:)	
)	
Application for Certification)	Docket No.
of the Malburg Generating)	01-AFC-25
Station by the City of Vernon)	
_____)	

CALIFORNIA ENERGY COMMISSION
HEARING ROOM A
1516 NINTH STREET
SACRAMENTO, CALIFORNIA

THURSDAY, JANUARY 9, 2003

10:12 a.m.

Reported by:
Peter Petty
Contract No. 170-01-001

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

COMMITTEE MEMBERS PRESENT

James D. Boyd, Presiding Member

Robert Pernell, Associate Member

HEARING OFFICER, ADVISORS PRESENT

Susan Gefter, Hearing Officer

A. V. "Al" Garcia, Advisor to Commissioner Pernell

STAFF AND CONSULTANTS PRESENT

Arlene Ichien, Staff Counsel

William Pfanner, Siting Project Manager

Joseph M. Loyer

Dale Edwards

Susan McClintock

Bill Taylor

Eric Knight

PUBLIC ADVISER

Grace Bos

APPLICANT

Eric T. Fresch, Legal Counsel

Ramon Z. Abueg, Assistant Director of Engineering
and Operations
City of Vernon

Krishna Nand, Associate
Parsons

ALSO PRESENT

Mozen Nazami
South Coast Air Quality Management District

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P R O C E E D I N G S

10:12 p.m.

PRESIDING MEMBER BOYD: Good morning, everybody. I'm Jim Boyd, Presiding Commissioner for this hearing. And in a moment I'll introduce everybody up here with me.

This is a prehearing conference on the City of Vernon's application for certification of the Malburg Generating Station. We are conducting this as not only a live meeting, but a teleconference for those who could not travel to Sacramento today, or maybe didn't want to travel to Sacramento today for fear of fog.

We'll ask the participants on the phone to identify themselves in just a few moments. In fact, we'll be asking most of you to identify yourselves.

As is our custom, the Commission has assigned a Committee of two Commissioners to conduct the proceedings on this AFC. And as indicated, I'm Jim Boyd, the Presiding Commissioner. And with me is Robert Pernell, who is the Second or Associate Commissioner on this group.

COMMISSIONER PERNELL: Good morning.

1 PRESIDING MEMBER BOYD: And to my
2 immediate left here is Susan Gefter, who is the
3 Hearing Officer that probably most people are
4 already familiar with.

5 And also with us is Al, I thought it was
6 Al, I see all these other initials up there, Al
7 Garcia, Commissioner Pernell's Advisor. And I
8 just excused my Advisor from this hearing to take
9 care of two or three other crises in my office
10 this morning. So Susan Bakker will not be here.

11 I'm going to ask now for the applicant
12 to have their folks introduced.

13 MR. FRESCH: For the City of Vernon,
14 myself, Eric Fresch, and Staff Counsel for the
15 Utilities Department. And to my immediate right
16 is Krishna Nand from Parsons Engineering Science.
17 And behind me is Ramon Abueg. He's from the City
18 of Vernon; he's the Operations Director of the
19 Utilities Department.

20 PRESIDING MEMBER BOYD: Thank you very
21 much.

22 HEARING OFFICER GEFTER: Mr. Fresch,
23 also I understand that another member of the City
24 of Vernon team will be calling in. Would you tell
25 us who that would be.

1 MR. FRESCH: Oh, a woman, Leslie
2 Marcotte. She'll be calling in on behalf of the
3 City of Vernon, just to take notes.

4 HEARING OFFICER GEFTER: Okay, thank
5 you.

6 PRESIDING MEMBER BOYD: All right. And
7 from our staff we have.

8 MR. PFANNER: Bill Pfanner, the Project
9 Manager.

10 MS. ICHIEN: I'm Arlene Ichien; I'm
11 sitting in for Bill Westerfield who is otherwise
12 Staff Counsel on the case.

13 PRESIDING MEMBER BOYD: All right. For
14 the record I'd like to mention there is one formal
15 intervenor, the California Unions for Reliable
16 Energy or CURE, who has indicated to us that they
17 did not intend to participate in this hearing
18 today. And I think I just wanted to affirm that.
19 Hearing nothing, I'm assuming their neither in the
20 room nor on the phone.

21 The agencies participating in this
22 hearing today are first the South Coast Air
23 Quality Management District. John Yee, and, John,
24 are you on the phone? He's not, as of yet. All
25 right.

1 And we've acknowledged the City of
2 Vernon Staff and the representative of the
3 Planning Department, I believe, already.

4 The City of Huntington Park?

5 HEARING OFFICER GEFTER: We are
6 expecting someone from Huntington Park to join us,
7 but that person is not on the phone yet.

8 PRESIDING MEMBER BOYD: Okay, Mozen, are
9 you there?

10 MR. NAZAMI: John Yee and Chandra Bhatt
11 engineer for the project.

12 PRESIDING MEMBER BOYD: Thank you. And
13 our Public Adviser's Office is represented today
14 by?

15 MS. BOS: Grace Bos, Associate Public
16 Adviser.

17 PRESIDING MEMBER BOYD: Thank you. And
18 another party who had expressed interest in this
19 but is not an intervenor, and would be represented
20 as a member of the public if they're participating
21 today would be the Communities for a Better
22 Environment. And I'm not sure that they're
23 represented either on the phone or here today.
24 And I'm going to assume they are not.

25 The AFC review process, I think as many

1 of you know is a very public proceeding. Members
2 of the public and interested community
3 organizations are invited to participate in our
4 proceedings and express their views on matters
5 related to the particular proposed project.

6 And at this time I want to ask the
7 Public Adviser to provide an update on her efforts
8 to contact local residents and interested groups.

9 MS. BOS: Thank you. Good morning.
10 I'll do a very quick two-minutes overview of what
11 we've done and summarize the outreach that we've
12 done.

13 We've done the usual sending of posters
14 and flyers to the local libraries. Besides that
15 we have sent 300 copies of our project description
16 to the schools, school district. It's actually
17 the Vernon City Elementary School.

18 We've sent 100 project description
19 flyers to the Chamber of Commerce; City of Vernon
20 Utility Department, 100 copies as well. And The
21 Vernon Journal. I think the City of Vernon
22 Utilities Department has their own journal, right.

23 And we did send 4500 bilingual flyers,
24 Spanish and English, to the newspaper called The
25 Wave, announcing the site visit and the hearing.

1 And that newspaper, The Wave, covers Huntington
2 Park, Maywood, Commerce and City of Bell.

3 We also then, to announce the site
4 visit, sent another 300 bilingual descriptions to
5 Vernon City Elementary School; another 100 to the
6 Chamber of Commerce; and 100 to the City of Vernon
7 Department.

8 And then, of course, we have individuals
9 that we respond to as they call and the
10 intervenors. If there's anything else you want to
11 know, I do have some copies I will pass out to you
12 of exactly what we did and the detail.

13 PRESIDING MEMBER BOYD: Okay, thank you
14 very much. That sounds very extensive.

15 Before I proceed and just give a little
16 bit more background I wanted to ask Commissioner
17 Pernell if there's anything that he wanted to say
18 this morning before we get into this hearing too
19 far.

20 COMMISSIONER PERNELL: Not at this time,
21 but, thank you, Commissioner Boyd.

22 PRESIDING MEMBER BOYD: Well, I look
23 forward to you and I having our next hearing down
24 in the City of Vernon.

25 COMMISSIONER PERNELL: The City of

1 Vernon.

2 PRESIDING MEMBER BOYD: And affording
3 you an opportunity to take a look at the
4 facilities.

5 And on that point, let me say it was on
6 May 8, 2002, quite some time ago, already, that
7 the City of Vernon filed an AFC to build the so-
8 called Malburg Generating Station on the existing
9 site of the City of Vernon's station A.

10 The AFC was filed as a six-month process
11 AFC, but with the applicant's agreement, the
12 review process has been delayed pending resolution
13 of certain issues.

14 The CEC Staff filed its staff assessment
15 on September 26, 2002; the so-called FDOC was
16 filed December 13th of 2002. And the addendum to
17 the staff assessment was filed on December 24th of
18 2002.

19 The parties filed prehearing conference
20 statements on December 31, 2002, an interesting
21 New Years Eve exercise. The statements indicate
22 that there are no disputed topics, and that the
23 parties wish to submit testimony and documentary
24 evidence by declaration. We will allow undisputed
25 testimony to be submitted by declaration at the

1 evidentiary hearing with the proviso, however,
2 that the parties shall have the opportunity to
3 cross-examine witnesses, if requested in a timely
4 manner.

5 We will establish a deadline in the
6 hearing order for the parties to notify us if they
7 desire to cross-examine another party's witness.
8 To insure a complete record we direct applicant to
9 provide live witnesses to testify on the topics of
10 project description and air quality. We may also
11 identify additional topics that require live
12 testimony as we proceed with today's discussions.

13 The purpose of today's prehearing
14 conference is to determine whether the parties are
15 ready for evidentiary hearings, and to discuss the
16 procedures necessary to conclude the certification
17 process.

18 In this regard we direct the parties to
19 present their respective positions on the topic
20 areas, and to propose an evidentiary hearing and
21 briefing schedule. And we also want to hear from
22 the various agency representatives on the status
23 of their respective reviews of this project.

24 At this point, having already done a lot
25 of Ms. Gefter's work, I want to ask her if there's

1 more she'd like to say in opening this hearing
2 before we get into the detailed procedures.

3 HEARING OFFICER GEFTER: I did want to
4 indicate that this is a somewhat informal
5 discussion and the parties may ask questions and
6 clarify issues as we proceed. Also, the Committee
7 will be asking questions, too, as we go through
8 the process.

9 In the prehearing conference statements
10 the applicant submitted a list of all the topics
11 in the form of a table, table 1, which is appended
12 to their prehearing conference statement.

13 And rather than my redoing the table, I
14 expected that everybody would have a copy,
15 including our Commissioners up here. And what
16 we'll do is we'll go through the list of topics on
17 the table A, if that's acceptable to everybody.

18 Does staff have a copy of the
19 applicant's prehearing conference statement with
20 that table attached?

21 MR. PFANNER: Yes.

22 HEARING OFFICER GEFTER: Okay. And I'm
23 going to assist the Commissioners in finding that
24 table in their packets. Okay, so everyone is on
25 that page.

1 What we'll do is once we start
2 discussing the topics we'll just follow the list,
3 and that way we'll all be, you know, all in the
4 same order.

5 I understand that the applicant has a
6 PowerPoint presentation that would cover the
7 project description area?

8 MR. FRESCH: That's correct.

9 HEARING OFFICER GEFTER: All right.
10 What I'll do is if you don't mind, as you're going
11 forward if we have questions we'll stop you and
12 ask our questions so that we can do it in the
13 context --

14 MR. FRESCH: That's great.

15 HEARING OFFICER GEFTER: -- of the
16 PowerPoint presentation. We understand, of
17 course, from the prehearing conference statements
18 that the applicant and staff agree there are no
19 disputed topics.

20 For the record, however, we do want the
21 parties to state their positions on each topic as
22 we go through the list. And we'd like to begin
23 with the applicant on project description. We
24 will skip over data adequacy and executive
25 summary, et cetera, because those are not topics.

1 Those are listed in your table 1, but we don't
2 need to look at those.

3 So I want to start with project
4 description and then we'll go on to air quality
5 which is the first one listed on the list.

6 MR. FRESCH: At this time we'd like to
7 commence with our PowerPoint presentation. Ramon
8 Abueg will conduct that over at this podium here
9 to give a description of the project and its
10 current status.

11 HEARING OFFICER GEFTER: Do you need the
12 lights turned down a bit for your presentation?
13 Mr. Abueg?

14 MR. ABUEG: Yes, we'll turn the lights
15 down as soon as the projector warms up.

16 PRESIDING MEMBER BOYD: And it will have
17 to be a very vivid description for those on the
18 telephone. They lack the advantage of a screen.

19 MR. ABUEG: Good morning. My name's
20 Ramon Abueg; I'm the Project Manager for the
21 Malburg Generating Station project. And I'm here
22 to present a description and the status of where
23 we are with the project, briefly give you some
24 updates of where we are.

25 This description of the project, the

1 project is a 134 megawatt combined cycle power
2 plant which comprised of two natural gas fired
3 combustion turbines, two HRSGs -- generators with
4 supplemental duct firing, catalytic reduction
5 emission control system, and one steam turbine
6 generator.

7 The main purpose of the power plant is
8 to provide base loading for our customers in the
9 City of Vernon.

10 HEARING OFFICER GEFTER: Mr. Abueg, I
11 have one question, even now. In the information
12 it wasn't clear that you're going to have one or
13 two stacks. There's a stack for each HRSG, isn't
14 that correct?

15 MR. ABUEG: That's correct, we'll have
16 two stacks. Each stack is about 110 feet tall.

17 HEARING OFFICER GEFTER: And could you
18 also tell us what the nominal output is for the
19 CTGs and the STG?

20 MR. ABUEG: The STG has -- I'm sorry,
21 the CTG has a nominal output of 42 megawatts each;
22 and the HRSG is about 52 megawatts each.

23 HEARING OFFICER GEFTER: Okay. When we
24 get to evidentiary hearing we're going to need
25 that kind of information in detail. That's why I

1 brought it up now.

2 MR. ABUEG: Okay, thank you. The
3 project or the plant will utilize emission control
4 technology that consists of a dry-lo NOx with a
5 CTG which is provided by Alston. And that, alone,
6 minimizes the emission of NOx or nitrogen oxides
7 to 22 parts per million.

8 In addition to that we're going to
9 install SCRs and CO catalysts in the HRSGs to
10 further minimize the emissions. For NOx down to 2
11 parts per million; for CO to 2 parts per million;
12 VOC to 1.2 parts per million.

13 The plant has been designed so that we
14 use the best combustion practices available in the
15 market. We will be using natural gas fuel so we
16 minimize the emission of PM10, as well as SOx.

17 The project site, as was stated earlier,
18 is going to be on an existing power plant site
19 that's been in operation since the 1940s. Vernon
20 is mainly an industrial city, so the project site
21 is surrounded by industrial and commercial land
22 uses. It's a very small area. And the project is
23 in an existing station so there won't be any new
24 transmission lines required. We'll be
25 interconnecting to an existing electrical

1 substation which is only like about 30 feet away.

2 As I stated earlier we will be using
3 clean burning natural gas for fuel. And we'll be
4 utilizing reclaimed water for cooling to be
5 provided by Central Basin Municipal Water
6 District. And we've identified no significant
7 impact on the environment.

8 This is another view of this site. As
9 you can see the surrounding area is mainly
10 industrial. The site is about 5.4 acres, the
11 total site. But the project will only use about
12 3.6 acres area.

13 This is just a bigger view of where the
14 site is going to be. The black area there shows
15 where the site's going to be. And this is the
16 place where the area is industrial.

17 Both our staff and the CEC Staff have
18 identified only one key observation point where
19 this plant might be visible. And this is a view
20 from that key observation point. This is before
21 the modeling is done. There's an empty vacant lot
22 which is about 3000 feet away.

23 And when the site is built you would
24 see, I don't know if you can see that on this
25 screen, is some plume or some smoke coming from

1 the site. And this is the worst case that we
2 anticipate.

3 As far as air quality for emission
4 offsets, we are going to procure all the necessary
5 offsets from other sources within the same air
6 quality basin. And we are going to purchase ERCs
7 or emission reduction credits for CO, VOC and
8 PM10. And we'll be using -- credits for NOx.

9 This is shown in the addendum, table 25,
10 in the CEC Staff's assessment. This is the
11 comparison of the expected annual emissions to the
12 offsets that the City will be providing. For
13 each, as you can see on the emissions table, for
14 example, for CO, emissions will be about 37,380
15 pounds -- procuring about 111,000 which will
16 actually we have an exceedance of offsets provided
17 by about 74,000 pounds.

18 To monitor emissions we'll be installing
19 what's called a CEMS system or a continuous
20 emissions monitoring system, that will
21 continuously analyze the emissions from the stack.
22 And will generate a report for compliance that
23 will be submitted to the Air Quality District. If
24 any limits are exceeded an alarm will trigger that
25 lets us know that we're exceeding the limits that

1 we committed to.

2 As far as the air quality, the AQMD
3 issued its final determination of compliance. We
4 have purchased some of the ERCs, as well as the
5 RTCs, and will be purchasing or procuring what's
6 remaining from the priority reserved credits with
7 the AQMD.

8 And we want to make sure that it's clear
9 that all emission credits will be acquired before
10 the permit to construct is issued by the Air
11 Quality Management District.

12 In terms of what we need to make this
13 plant operate we will be installing a 1300 foot
14 pipeline from an existing transmission line. And
15 there's a good availability of natural gas from
16 where we are. The gas -- is also owned by the
17 City of Vernon, so we do not have to contract or
18 negotiate with other agencies.

19 In terms of wastewater, similar to the
20 gas, we'll -- 1300 sewer line. And most of these
21 charges will be coming from the cooling tower and
22 blow-down from the heat recovery steam generator,
23 from equipment drains and -- waters, of the
24 combustion turbines. There will be a clarifier
25 that would separate the oily water from the --

1 water.

2 As I mentioned earlier, the plant will
3 be using reclaimed water. And we have a contract
4 with the Central Basin Municipal Water District
5 that would provide the water that's required for
6 cooling.

7 And what that requires is a -- from both
8 the City and the Central Basin to upgrade the
9 Central Basin system that requires an installation
10 of a pipeline about 1.8 miles, booster pumps and a
11 pressure reducing station.

12 At the site, itself, we're going to have
13 a 480,000 gallon tank at the site that allows us
14 to operate the plant up to eight hours should the
15 reclaimed water supply be cut off.

16 And this just to show you where the
17 pipelines are coming from. The 1300 foot sewer
18 and gas line are parallel to each other on --
19 Avenue, which is just to the left of the site,
20 that short distance there on -- Avenue. And the
21 routing of the Central Basin pipeline is
22 originating from Huntington Park, from the south
23 going north and going to the west.

24 In terms of other permit, we have
25 completed NPDES permit. We have received the

1 water discharge identification number from the
2 L.A. County Sanitation District. And we also have
3 completed all our plans that we have on record.
4 So we do have the ID numbers for construction, as
5 well as for industrial -- when we go into
6 operation.

7 As for the electrical interconnection,
8 as stated earlier this project does not require
9 any new transmission lines. We can directly
10 connect to the busses on an existing substation.
11 And the system impact study was performed showing
12 no significant impact on the transmission and
13 transformer system in the Edison system.

14 There will be minor increases in -- on
15 some of the SCE breakers. But all the breakers on
16 the City's 69 kV system will need to be replaced
17 because of the increased duty due to the
18 introduction of the additional generation station.

19 This is what the plant's going to look
20 like. This is the artist's rendition. As you can
21 see from here it's a very very small site. It's
22 very packed, it's tight. This is a picture, I
23 also want to show you a three-dimensional, what
24 they call the fly-around of what this would look
25 like when it's completed. So it's about a 50-

1 second video.

2 What our consultants did was they took
3 basically a three-dimensional picture of all the
4 equipment that will be installed and simulated
5 what it would be like once it's assembled. And
6 basically just flying around the site to show
7 basically what it would look like once they're
8 installed and how they are related to each other.

9 (Pause.)

10 MR. ABUEG: And these are the two stacks
11 that Ms. Gefter was asking about.

12 As far as project status, the City has
13 purchased all the major equipment that's necessary
14 for this project. So the City has already spent
15 approximately \$60 million in equipment purchase
16 which includes the power island which are the
17 generators, the combustion turbine, the steam
18 turbine as well as the heat recovery steam
19 generator, the transformers, the breakers, the
20 cooling tower, condenser and the gas compressors.
21 They've all been purchased, just awaiting for the
22 release so they can deliver them.

23 We have completed 25 percent of the
24 detailed engineering, and we're ready for
25 construction on some of it.

1 The advantages of this project are one,
2 as stated earlier, it will be built on an existing
3 site. And our goal is to really serve the
4 businesses within Vernon. Vernon offers one of
5 the lowest rates in California, and we would like
6 to continue that with the addition of this
7 generating station.

8 Vernon supports about 45,000 employees.
9 Vernon is a nonresidential city, it's an
10 industrial city, although we only have about 100
11 residents. There's about 45,000 employees that
12 work within the City of Vernon.

13 The L.A. County Development Corporation
14 did a study recently that showed that of the
15 45,000 jobs that are in Vernon, within a two-mile
16 radius from Vernon, those employees come from
17 Huntington Park, Maywood, Bell, as well as from
18 Southgate. So we do offer a lot of economic
19 benefits to this community surrounding Vernon.

20 As a direct result of this project there
21 will be about \$30 million worth of direct payroll
22 during construction. And when it's built we
23 anticipate about a \$4 million annual payroll
24 during operation of the project.

25 The study that was done using impact

1 analysis for planning model showed that during
2 construction there will be 108 direct employees
3 for the construction company; and a resulting 284
4 indirect jobs that will be created in the
5 surrounding community.

6 And during operation there will be 32
7 direct new jobs, and 144 indirect jobs that will
8 be created.

9 Again, this project will not have any
10 significant impact to public health or the
11 environment. And we intend to comply with all the
12 required LORS.

13 And as stated in the staff assessment
14 report these are the different technical areas of
15 discipline, and this is just a copy of what's in
16 the staff assessment report showing that we do
17 comply with all the requirement of LORS.

18 And to summarize, we're ready to build
19 this project to serve our community and our
20 customers in Vernon.

21 Any questions?

22 HEARING OFFICER GEFTER: Yeah, once we
23 get the lights on we do have a question here.

24 Let's go off the record for a minute.

25 (Off the record.)

1 COMMISSIONER PERNELL: I just have one
2 brief question related to the output of the plant.
3 Is that strictly for the City of Vernon, or will
4 you have excess output for the grid?

5 MR. ABUEG: When we build this project
6 it's really designed strictly for the City of
7 Vernon baseloading. To the extent that we have
8 some excess, that excess will be coming from the
9 power that we purchase from the outside.

10 The reason I say that is the City's peak
11 load is about 190 megawatts. And this is only 134
12 megawatt output.

13 COMMISSIONER PERNELL: I see. Thank
14 you.

15 PRESIDING MEMBER BOYD: Can I expand on
16 that question. As I understand your answer,
17 it's -- you weren't specific, you said it's
18 possible that this plant will offset the need for
19 purchased power, if I understood you right.

20 MR. ABUEG: Yeah, currently we're
21 purchasing most of the power that we need to
22 supply for the City of Vernon.

23 PRESIDING MEMBER BOYD: So this will
24 offset at least 134 megawatts of currently
25 purchased power?

1 MR. ABUEG: That's correct. That, by
2 itself, will not contribute to the grid, but we
3 will offload --

4 PRESIDING MEMBER BOYD: That adds to the
5 grid that --

6 MR. ABUEG: -- power from the grid.

7 COMMISSIONER PERNELL: Right, right.

8 PRESIDING MEMBER BOYD: Thank you.

9 COMMISSIONER PERNELL: So basically it's
10 still a benefit to California.

11 MR. ABUEG: That's correct.

12 COMMISSIONER PERNELL: Indirectly, yes.

13 MR. ABUEG: Well, it's also direct,
14 because if you're familiar with Path 15 during the
15 summer the power comes from the north that gets
16 sent down to the south. We're basically
17 offloading 134 megawatts off of the transmission
18 system --

19 PRESIDING MEMBER BOYD: Yes, we're
20 painfully aware of Path 15.

21 (Laughter.)

22 HEARING OFFICER GEFTER: All right,
23 well, --

24 PRESIDING MEMBER BOYD: Thank you.

25 HEARING OFFICER GEFTER: -- I think this

1 is a good time to move into the air quality topic.
2 You raised a lot of information and you sort of
3 skimmed over it. And I thought perhaps we could
4 have some discussion about the air quality issues
5 that were finally resolved.

6 And I'll ask the applicant to summarize
7 to us what the issues were. And then we also have
8 a representative from staff who has prepared a
9 table for us. And I don't know whether the
10 applicant has a copy of the table that the staff
11 has prepared. Perhaps you have an extra copy out
12 there for the applicant.

13 Mr. Loyer, actually I have an extra copy
14 here, so --

15 MR. LOYER: I've got it.

16 HEARING OFFICER GEFTER: All right. And
17 this would also be the appropriate time for the
18 Air District representatives to come onto the
19 line, onto the phone, and participate in the
20 discussion about air quality.

21 MR. FRESCH: The applicant has brought
22 Dr. Krishna Nand from Parsons Engineering Science,
23 and he has prepared a presentation of the air
24 quality issues.

25 HEARING OFFICER GEFTER: Okay, and as

1 you understand, we're not taking testimony today.
2 We just want an overview of what the issues are so
3 that when we get to evidentiary hearing we will be
4 able to discuss them in more depth.

5 MR. FRESCH: We understand.

6 DR. NAND: Thank you, Eric. What I'm
7 going to do, give you sort of an overview of the
8 air quality analysis, and also describe how we
9 solved the additional mitigation requirement which
10 was suggested by California Energy Commission
11 Staff in their staff assessment report.

12 As Ramon mentioned, we will have, the
13 City of Vernon, two Alston GTX100 combustion
14 turbine generators and then two HRSG units that
15 have separate stacks. And also as part of the
16 system we'll have a cooling tower. And also an
17 emergency fire water pump.

18 The combustion turbine generators and
19 the post combustion controls which we are planning
20 to install at this power plant will make these
21 units one of the probably best in the country.
22 And we are proud of it, that we are going to
23 install probably one of the cleanest systems in
24 the country.

25 HEARING OFFICER GEFTER: May I ask you a

1 question, because we hear that from every
2 applicant. Why would these --

3 (Laughter.)

4 HEARING OFFICER GEFTER: -- why are
5 these turbines cleaner than any other turbine that
6 is being built or sited in California?

7 DR. NAND: One of the reasons is that
8 the standards, the emission standards, which are
9 specified by different agencies, we have gone
10 below than that. So if somebody say that the
11 emission limits should be 2 parts per million, and
12 we are going to 1.2 parts per million. So we are
13 definitely the cleanest.

14 HEARING OFFICER GEFTER: 1.2 parts per
15 million for NOx?

16 DR. NAND: For VOC.

17 HEARING OFFICER GEFTER: For VOC.

18 DR. NAND: The emission limit for carbon
19 monoxide, many places they are still going to 4
20 parts per million or 6 parts per million, and we
21 are going to 2 parts per million. So it is one of
22 the cleanest.

23 And as you know, this project, probably
24 we have been working for almost two years. At
25 that time the NOx limit was in the range of 2.5 to

1 3 parts per million and we went, on our own, to 2
2 parts per million. So that's why I say it's one
3 of the cleanest.

4 Some of the important points for this
5 combustion turbine generator system is that we
6 have put the best possible controls. And the
7 second thing is that most of the projects, I have
8 not heard any project where they are going to put
9 a CO catalyst system controlling the emissions of
10 the carbon monoxide during the commissioning
11 phase.

12 The City of Vernon has made this
13 decision that we will install a CO catalyst in the
14 commissioning phase so that the emissions are low,
15 are reduced. And we will discard that catalyst
16 and put a brand new catalyst after the units are
17 commissioned, so this --

18 HEARING OFFICER GEFTER: Is that
19 proposal included in the conditions of
20 certification?

21 DR. NAND: That's part of our project.
22 That's how we have defined our project.

23 HEARING OFFICER GEFTER: Staff, is that
24 included in the commissioning conditions of
25 certification?

1 MR. LOYER: We have not included that in
2 the commissioning conditions of certification.

3 HEARING OFFICER GEFTER: Okay.

4 PRESIDING MEMBER BOYD: But it's a
5 baseline condition?

6 MR. LOYER: Joseph Loyer, California
7 Energy Commission.

8 PRESIDING MEMBER BOYD: Excuse me, it's
9 a baseline condition, though?

10 DR. NAND: That's right, it's part of
11 our project.

12 And as Ramon mentioned that we are going
13 to use reclaimed water, so this is important and
14 good, too, for the environment.

15 The California Energy Commission Staff
16 issued the first staff report in September 2002.
17 And the staff assessment identified air quality as
18 an area of special concern. Especially for the
19 impacts the staff identified that the direct and
20 secondary PM10 emissions will be of concern if
21 they are not mitigated.

22 The staff identified that we will need
23 additional mitigation for about 6.8 pounds of
24 sulfur dioxide and about 6.8 pounds of PM10.

25 The City of Vernon had not planned to

1 mitigate those emissions due to mainly two
2 reasons. The sulfur dioxide emissions, as per the
3 rule in South Coast AQMD, that if your project
4 emissions of sulfur dioxide would be less than 4
5 tons per year, they don't require emission offset
6 for that.

7 For PM10, which was identified by the
8 staff, basically all the emissions were coming
9 from the cooling towers. And as per the South
10 Coast AQMD rule -- incidentally, all the rules of
11 South Coast AQMD, they are approved by the federal
12 EPA. And as for the South Coast AQMD rule we
13 don't have to mitigate the emissions coming from
14 the cooling towers if we can show that the health
15 risk from the cooling tower would be less than one
16 in a million. And that's the reason we have not
17 proposed to buy additional ERCs to mitigate those
18 emissions.

19 Subsequent to the receipt of the staff
20 report, staff assessment, South Coast AQMD
21 clarified that how they implement their emission
22 reduction credits rule, what are the conditions,
23 how you can buy them, and how they really account
24 these mitigated emissions.

25 The first clarification came from South

1 Coast AQMD that the emissions which they exempt
2 from mitigation requirement, like for sulfur
3 dioxide, the project proponent has not to find
4 those mitigated emissions, but rather South Coast
5 AQMD will internally mitigate those emissions.

6 So what it means that if we are not
7 mitigating the sulfur dioxide by buying the
8 emission credits from the market, South Coast AQMD
9 will internally do from their banks. They have a
10 bank. And when that position was clarified, then
11 the staff agreed, yes, this will be mitigated from
12 the South Coast AQMD bank. And that's how we
13 solved the problem for the sulfur dioxide.

14 The City has not to go and buy any
15 emission reduction credits, the South Coast AQMD
16 are from outside market, and the sulfur dioxide
17 emissions will be mitigated.

18 HEARING OFFICER GEFTER: I think we're
19 going to have to ask the AQMD to explain that
20 process. And we don't need to hear that today,
21 but we probably will ask them --

22 DR. NAND: Sure.

23 HEARING OFFICER GEFTER: -- at the
24 evidentiary hearing. Is Mr. Yee still on the
25 phone?

1 DR. NAND: I think Mozen --

2 HEARING OFFICER GEFTER: Mozen is on the
3 phone?

4 MR. NAZAMI: Yeah, South Coast is still
5 on the phone, yes.

6 HEARING OFFICER GEFTER: Okay. At the
7 evidentiary hearing we would ask you or a
8 representative from the Air District to explain
9 how you can provide offsets within your own bank
10 and not require the applicant to purchase offsets.

11 MR. NAZAMI: Okay.

12 HEARING OFFICER GEFTER: Okay, thank
13 you.

14 DR. NAND: Now, South Coast AQMD, as
15 they explained in their accounting their procedure
16 that suppose I require 100 pounds of PM10
17 emissions I have to offset it, I have two options.
18 One is I can go outside the market and purchase
19 it. Only thing if I buy say 10 pounds of PM10
20 from outside market, I have to -- I can take
21 credit only 20 percent less of that.

22 But the second part which I can buy
23 directly from South Coast AQMD I have to buy a
24 ratio of one-to-one. Suppose I need 100 pounds of
25 PM10 ERCs and I decide to go buy everything from

1 District, I have to buy only 100 pounds from the
2 District. But if I have to buy from, I decide to
3 buy from outside market, I have to buy 120 pounds.

4 But there's another thing in the
5 District accounting procedure that even though on
6 paper I buy 100 pounds, they will deduct from the
7 bank 120 pounds. So 20 pounds is extra, which
8 comes from the -- which we did not know when the
9 staff assessment was done, and South Coast
10 explained that that's how they do it.

11 So what is happening that we are
12 planning to buy about 160 pounds of PM10 from the
13 District. So literally, what it means, that
14 actually on the book -- will be about 190 pounds.
15 So we are getting about 20 pounds of extra PM10
16 from that is when the accounting procedure. And
17 that will take care of the 6.8 pounds of the PM10
18 credits if we want it. And that's what was
19 identified by the staff.

20 So that also is taken care, so we don't
21 have to buy any extra credits. So everything is
22 balancing out.

23 HEARING OFFICER GEFTER: Let me ask a
24 question at this point. In the staff's addendum
25 to the FSA, the staff assessment, do you explain

1 all of that in your testimony? Because if it's
2 not there in a very clear way, I'm going to ask
3 the parties to provide supplemental testimony.
4 Because it's very difficult for the Committee to
5 follow that explanation with respect to, you know,
6 the District's banking procedure, and how they
7 balance, they require offsets. Mr. Loyer?

8 MR. LOYER: Yeah. I think I can best
9 respond to that by saying that I attempt to
10 explain that in as clear a way as possible in my
11 addendum testimony.

12 But as you have heard, it is somewhat
13 confusing. Especially if we want to discuss
14 anything like the history by which we came to the
15 understanding of how the District processes work.

16 It gets quite involved.

17 So I think in my testimony I attempted
18 to only discuss what the District processes were,
19 how we understood them, and how they played into
20 our evaluation of the project's emission impacts
21 and mitigation strategy.

22 HEARING OFFICER GEFTER: Well, I'll
23 certainly look at your addendum, but what I think
24 we will need at the evidentiary hearing, though,
25 is sort of a map or a guideline.

1 And perhaps if the staff and applicant
2 could work together on this, if staff and
3 applicant are in agreement that the offset package
4 is sufficient, perhaps you could put together an
5 outline for us. And as we walk through it during
6 the testimony you'll be able to indicate to us how
7 it works.

8 And so we would request that be prepared
9 as your written testimony prior to the evidentiary
10 hearing.

11 MR. LOYER: Very well. No problem.

12 MR. FRESCH: We can do that.

13 DR. NAND: Yeah, we could probably work
14 together.

15 HEARING OFFICER GEFTER: Yes, that's
16 what I would prefer, is to have one document --

17 DR. NAND: Sure.

18 HEARING OFFICER GEFTER: -- that both
19 parties agree with. And also confer with the Air
20 District.

21 DR. NAND: Sure.

22 HEARING OFFICER GEFTER: Thank you, that
23 would be very helpful.

24 PRESIDING MEMBER BOYD: Yes, I put a lot
25 of credence in the fact that the Air District

1 states that their requirements have been met by
2 the fuzzy math that's involved in this.

3 HEARING OFFICER GEFTER: And I think
4 Mozen is still on the phone?

5 MR. NAZAMI: Yes.

6 HEARING OFFICER GEFTER: Yes.

7 COMMISSIONER PERNELL: Is that a normal
8 procedure that was described in terms of how you
9 come to whether your requirements are being met?

10 HEARING OFFICER GEFTER: Okay, that's a
11 question for the Air District.

12 MR. NAZAMI: Commissioner Pernell, the
13 question if this is a normal procedure for how the
14 requirements being met, also the District follows
15 in cases where we're not the lead agency and we
16 don't have the responsibility for CEQA is we look
17 at our applicable rules and regulations for
18 offsets, in particular, they fall under our new
19 source review rule. And our new source review has
20 specific guidelines on how you calculate emissions
21 and where you provide offsets.

22 So the short answer to your question is
23 that this is the normal process by which we
24 determine whether the project complied with the
25 offset requirements under new source review.

1 It may be a little different than the
2 CEQA and AFC environmental assessment process in
3 terms of how the mitigation jibes with the
4 emissions. But it is, for our purpose of rules
5 evaluation, it is the normal process, yes.

6 HEARING OFFICER GEFTER: What I would
7 like to see in the parties' prepared testimony on
8 this is also a comparison with what the Air
9 District requires. And, you know, how that
10 compares with what staff is requiring, where they
11 intersect and where they're different.

12 MR. ABUEG: Yes, we can do this.

13 DR. NAND: We can do that.

14 HEARING OFFICER GEFTER: And staff
15 agrees with that, too? That you can provide us
16 that information?

17 MR. LOYER: Absolutely. In this
18 particular case they will be one and the same.

19 HEARING OFFICER GEFTER: Okay.

20 PRESIDING MEMBER BOYD: And the onus is
21 on our staff to say that CEQA is met?

22 MR. LOYER: Right.

23 HEARING OFFICER GEFTER: That's right.

24 MR. LOYER: That's right.

25 HEARING OFFICER GEFTER: Okay. Mr.

1 Nand.

2 DR. NAND: Yes. So that's the way we
3 resolved the additional emission reduction credits
4 which were identified by the staff. And we feel
5 that everything is resolved.

6 I'd also like to mention about the
7 impacts during the construction of the project.
8 As Ramon mentioned, it's an industrial area; and
9 it's a very small area, in fact the fenceline is
10 very tight. So all the emissions which are
11 happening at the project, since fenceline is so
12 close, you have high concentrations outside the
13 fenceline.

14 Fortunately, the pedestrian traffic is
15 very low in that area because only 100 people live
16 in our City. And the impacts of the two months,
17 actually, during the construction phase, and the
18 staff has identified certain certification of
19 conditions, some monitoring requirements. And we
20 have agreed to do that. And that's the way the
21 impacts were mitigated.

22 In summary, I'd like to say that all the
23 air quality impacts have been fully mitigated.
24 And we are ready to start the construction of the
25 project.

1 HEARING OFFICER GEFTER: Staff, on the
2 topic of air quality, is there any information you
3 would like to add at this point?

4 MR. LOYER: Not really. I think the
5 applicant has covered it quite gracefully.

6 HEARING OFFICER GEFTER: All right.
7 What I would like to see, also, in the proposed
8 testimony prior to evidentiary hearing is some
9 language for a condition on commissioning that
10 includes the CO catalyst that Mr. Nand described
11 as part of the project description. Because I
12 don't see that in the project description; it's
13 not in this section, at least in the AFC section
14 on project description.

15 MR. LOYER: If I may point out, there
16 is, while it doesn't require a CO catalyst, there
17 are emission limits during commissioning that
18 would pretty much require you to put a CO catalyst
19 on, although it is not explicitly stated.

20 Did you want to see something beyond
21 that?

22 HEARING OFFICER GEFTER: I would like to
23 put it in a condition because it's not described.
24 I don't see a place in the record where it's
25 described. Perhaps you can point me to that?

1 MR. LOYER: It's not here.

2 DR. NAND: Okay, we can elaborate that
3 in our project description when we do the
4 testimony. Would you like that?

5 HEARING OFFICER GEFTER: That, we would
6 appreciate that, yes.

7 DR. NAND: Okay.

8 HEARING OFFICER GEFTER: I still would
9 like to see some language in the condition. If
10 you want to put it in the project description,
11 that's fine. But I'd like to see it in the --

12 MR. LOYER: We can add a condition of
13 certification to that effect that requires the
14 applicant to include a CO catalyst during the
15 commissioning period. And we'll work with the
16 applicant to make sure that condition doesn't
17 inadvertently tie their hands during construction.

18 HEARING OFFICER GEFTER: That's right.
19 And also, based on the information that Mr. Abueg
20 mentioned, I guess Mr. Nand told us you're going
21 to also install CO catalyst when operation begins,
22 too. So it would be a new catalyst? Is that --
23 that was my understanding --

24 DR. NAND: Correct.

25 HEARING OFFICER GEFTER: -- from what

1 you said. All right, and now that, of course, is
2 required in the conditions, is that --

3 MR. LOYER: Yeah, they are required to
4 install a CO catalyst for the purposes of
5 operation.

6 HEARING OFFICER GEFTER: All right. So,
7 now the commissioning conditions are usually
8 prepared by the Air District, right?

9 MR. LOYER: In this particular instance,
10 you know, I'm not entirely sure that the District
11 has any commissioning conditions beyond their
12 requirement for the reclaimed NOx emissions
13 credits.

14 DR. NAND: They are only in terms of the
15 emissions.

16 MR. LOYER: Right.

17 DR. NAND: As you rightly mentioned
18 actually, because the District permit will specify
19 how much emissions we can have in the
20 commissioning phase and --

21 HEARING OFFICER GEFTER: Yes.

22 DR. NAND: -- that's all indirectly tied
23 to that.

24 HEARING OFFICER GEFTER: Okay, that's
25 fine. If you could just give us some language for

1 a condition. It could be part of the condition
2 that already exists that sets the limits. And you
3 could include that. Just give us the language --

4 MR. LOYER: Sure.

5 HEARING OFFICER GEFTER: -- and we'll
6 work with that.

7 MR. FRESCH: That's acceptable to the
8 applicant.

9 DR. NAND: Yeah.

10 HEARING OFFICER GEFTER: Thank you.

11 COMMISSIONER PERNELL: On the visual
12 that you showed us of the project, I noticed that
13 there was a street right outside the property line
14 where the cyclone fence was. Is that a public
15 street or a private road?

16 MR. ABUEG: That's a public street.

17 COMMISSIONER PERNELL: Okay.

18 HEARING OFFICER GEFTER: All right.
19 Anything else on air quality?

20 MR. LOYER: If I may add, I just kind of
21 thought of something when Commissioner Pernell
22 asked that question.

23 One of the requirements, as the
24 applicant has stated, the construction impacts are
25 quite high for the first two months because this

1 project's fenceline is so close to the actual
2 construction activity, they aren't doing anything
3 constructive-wise that is unusual. It is just
4 that the fenceline is so close.

5 Therefore, one of the requirements that
6 we asked the applicant to look into and they have
7 agreed to is to block off or redirect pedestrian
8 traffic on the sidewalk adjoining that fenceline,
9 so that any pedestrians or public do not have
10 access to that sidewalk.

11 We felt that that sidewalk, given that
12 as a buffer, and the street, itself, as a buffer
13 to the next sidewalk, was enough of a buffer to
14 give us enough time to dilute that nitrogen oxide
15 and PM10 emissions from the construction activity
16 to a level where they won't be adverse to any
17 public that may be standing by and watching.

18 As far as the traffic is concerned on
19 that particular street, they would pass by that,
20 the construction zone, so they won't be in
21 residence long enough to have any kind of impact
22 on them.

23 HEARING OFFICER GEFTER: Is that
24 included in the condition?

25 MR. LOYER: It is, in AQC-1.

1 COMMISSIONER PERNELL: Thank you.

2 PRESIDING MEMBER BOYD: I'd just comment
3 that I think that's a very commendable approach.
4 While it was mentioned there are only 100 citizens
5 in Vernon, it was also mentioned there are 45,000
6 employees in Vernon at any given point in time.
7 And this might be an attraction for a sidewalk
8 crowd once in awhile. It might be the most
9 exciting thing for blocks around and --

10 (Laughter.)

11 HEARING OFFICER GEFTER: On the table,
12 Mr. Loyer, that you provided I would like to be
13 walked through it because it's very confusing.
14 And we don't need to do that today, but in your
15 testimony at the evidentiary hearing if you could
16 walk us through this table.

17 The table, for those on the phone, it's
18 on one side it shows the project issues that were
19 originally identified; on the other side it shows
20 the resolutions.

21 And I understand that this pretty much
22 summarizes your testimony to some extent. But we
23 need to be walked through the table --

24 MR. LOYER: Just so we're clear, these
25 were originally intended as notes for me.

1 HEARING OFFICER GEFTER: Yeah, okay.

2 MR. LOYER: So, --

3 (Laughter.)

4 HEARING OFFICER GEFTER: Great. So we
5 need to expand on this at the evidentiary hearing
6 so that we can all stay on the same page and
7 understand what's going on.

8 MR. LOYER: Absolutely.

9 HEARING OFFICER GEFTER: Thank you. I
10 think we're done with air quality at this point.

11 MR. NAZAMI: Ms. Gefter, this is Mozen.
12 I think we would like to get an opportunity to
13 also comment on the air quality.

14 HEARING OFFICER GEFTER: At this time,
15 right now?

16 PRESIDING MEMBER BOYD: Now is the time
17 to do it, then.

18 MR. NAZAMI: Yes, at this time. We have
19 sent a letter to Mr. Paul Richins and Bill Pfanner
20 yesterday, an email, that I'm not sure if -- one
21 of the --

22 HEARING OFFICER GEFTER: Let me ask
23 about, ask staff whether they received the letter.

24 MR. PFANNER: I received it this morning
25 electronically.

1 HEARING OFFICER GEFTER: Okay, we don't
2 have a copy of it. Do you have any copies?

3 MR. PFANNER: No.

4 HEARING OFFICER GEFTER: Okay, could we
5 get copies made?

6 MR. PFANNER: Yes.

7 HEARING OFFICER GEFTER: Okay.

8 MR. NAZAMI: And I don't need to go
9 through the letter in detail, but I just want to
10 point out our primary concern was in terms of
11 table 5 and 26 in the addendum to the staff
12 assessment for the annual emissions and offsets.

13 It says that the offsets that were
14 provided were actually in excess of what was
15 required. And, again, I want to reiterate that
16 under our new source review program, which is
17 (inaudible) that the amount of offsets actually
18 required and provided are not in excess of the
19 emission levels.

20 And I understand for AFC and CEQA
21 process maybe looking at calculating the emissions
22 differently, but for new source review purposes,
23 these are not excess.

24 When the word offsets are used, offsets
25 primarily come from new source review requirement.

1 We think that there needs to be some clarification
2 made in the table to not to give the impression
3 that the project proponent has to provide more
4 offsets than required under new source review.

5 HEARING OFFICER GEFTER: Staff's
6 response to that?

7 MR. LOYER: This is Joe Loyer, Mozen. I
8 got the letter and I read over all your comments,
9 including this one. And I don't see any problem
10 with us making those kind of modifications and
11 clarifications to the staff testimony.

12 We'll be discussing how we'll be doing
13 that in a particular vehicle, and we'll be making
14 sure that all of our management is on board and
15 okay with that.

16 But at this point I think the best thing
17 for us to do is to identify that we did receive
18 your comments, and we are taking them into
19 consideration.

20 MR. NAZAMI: Okay, I appreciate it. And
21 lastly, I just want to point out that also on our
22 final permit that we would be issuing for the
23 project under Title 5, that we would also like to
24 incorporate any condition that the California
25 Energy Commission would require in terms of making

1 sure that a CO catalyst is installed during
2 commissioning period.

3 MR. LOYER: We'll definitely be sharing
4 that language with you.

5 MR. NAZAMI: Okay, thank you.

6 HEARING OFFICER GEFTER: Thank you very
7 much. When staff revises table 25 and 26, if you
8 do so, we would need an explanation for the
9 changes. And if the Air District could work with
10 you in giving us the language, to explain to us
11 what the Air District's concerns are and why staff
12 has changed the tables.

13 MR. LOYER: Having the benefit of their
14 letter in front of me, I can tell you that they
15 have laid out their concerns, and have actually
16 recommended language.

17 HEARING OFFICER GEFTER: Very good. We
18 would need copies of that letter. Has it been
19 docketed?

20 MR. PFANNER: No, it hasn't. That's why
21 I didn't bring it down, because it's just received
22 and into my hands electronically. It's addressed
23 to Paul Richins. And it will be docketed and
24 circulated to everyone.

25 HEARING OFFICER GEFTER: Thank you.

1 Okay. And, Mozen, before you go, we are going to
2 be scheduling the evidentiary hearing. And while
3 you're on the phone I'll just mention to you the
4 date, and then we can work with you or your staff.

5 It is a Monday, February 10th. And we
6 understand that the District Office isn't open on
7 a Monday, but this is when we're going to do it.
8 So we hope that you or one of your staff members
9 could join us at that hearing. It's going to be
10 in the City of Vernon.

11 MR. NAZAMI: That would not be a
12 problem.

13 HEARING OFFICER GEFTER: Thank you very
14 much. All right, we'll discuss more details later
15 in today's hearing, but as long as the Air
16 District was on the phone, I wanted to bring that
17 up.

18 Are there any other issues with respect
19 to air quality at this time?

20 Okay. We can move on, then. What I'm
21 going to do is actually go through the topics that
22 I understand there are no issues, and then we'll
23 go back to, I think, cultural was an issue, and
24 also the environmental justice issue which was
25 discussed in socioeconomics.

1 I had questions on a few topics, as
2 well, but let me just run through the topics where
3 I understand there are no issues, and I didn't
4 have any questions. And we'll just ask the
5 parties whether they agree that we won't require
6 testimony in these topics, other than declarations
7 filed, to submit the testimony.

8 And those topics, biology, biological
9 resources. I just want everyone's agreement that
10 there are no disputes.

11 MR. FRESCH: We're in agreement; there
12 are no disputes.

13 HEARING OFFICER GEFTER: Okay.
14 Compliance, of course, that's staff's proposed
15 compliance. There would be no dispute there?
16 Right. Okay.

17 Facility design?

18 MR. FRESCH: We're in agreement, there
19 are no disputes.

20 HEARING OFFICER GEFTER: Staff is
21 nodding; Mr. Pfanner is nodding, --

22 MR. PFANNER: Agreed, yes.

23 HEARING OFFICER GEFTER: Geology,
24 paleontology, no dispute?

25 MR. FRESCH: We are in agreement, there

1 are no disputes.

2 MR. PFANNER: Okay.

3 HEARING OFFICER GEFTER: Land use?

4 MR. PFANNER: Agreement.

5 HEARING OFFICER GEFTER: Right. And

6 noise?

7 MR. FRESCH: Agreement.

8 MR. PFANNER: Agreement.

9 HEARING OFFICER GEFTER: Efficiency?

10 MR. FRESCH: Agreement.

11 MR. PFANNER: Agreement.

12 HEARING OFFICER GEFTER: Reliability?

13 MR. PFANNER: Agreement.

14 MR. FRESCH: Agreement.

15 HEARING OFFICER GEFTER: Alternatives?

16 MR. FRESCH: Agreement.

17 MR. PFANNER: Agreement.

18 HEARING OFFICER GEFTER: All right.

19 Public health?

20 MR. PFANNER: Agreement.

21 MR. FRESCH: Agreement.

22 HEARING OFFICER GEFTER: Soil and water?

23 MR. PFANNER: Agreement.

24 MR. FRESCH: Agreement.

25 HEARING OFFICER GEFTER: Transmission

1 line safety and nuisance?

2 MR. PFANNER: Agreement.

3 MR. FRESCH: Agreement.

4 HEARING OFFICER GEFTER: Transmission
5 safety and system engineering?

6 MR. FRESCH: Agreement.

7 MR. PFANNER: Agreement.

8 HEARING OFFICER GEFTER: All right.

9 Worker safety and fire protection?

10 MR. FRESCH: Agreement.

11 HEARING OFFICER GEFTER: And waste
12 management?

13 MR. PFANNER: Agreement.

14 MR. FRESCH: Agreement.

15 HEARING OFFICER GEFTER: All right, and
16 I'm going to go back to visual because I think
17 there were some concerns there. In fact, let's
18 talk about it right now on visual.

19 There's no staff member here, other than
20 Mr. Pfanner, on visual -- oh, yes, he's in the
21 back. Why don't you come forward.

22 MR. PFANNER: Well, it was pretty
23 simple, if I can just summarize that the concern
24 was with the height of the stacks and the plume,
25 would it be visible, and what kind of an impact

1 would it have in the area.

2 And, as mentioned, it's predominantly an
3 industrial area. And that there was one sensitive
4 viewing point identified, the key observation
5 point, which is in the City of Huntington Park,
6 east of 53rd Street, about 1250 feet southwest of
7 the site.

8 And staff evaluated the visual impact
9 using their criteria and determined that with the
10 proposed conditions in regards to CEQA and LORS,
11 that they would eliminate any significant adverse
12 visual impacts, and impacts involve controlled
13 lighting, neutral colored painting and landscaping
14 conditions. So nothing extraordinary there.

15 The issue did come up then in terms of
16 the more cumulative impact from the plume. And
17 the bigger picture analysis, the staff requested
18 that computer modeling be conducted to look at the
19 plume. And, again, the analysis found a key
20 observation point for an area approximately 3000
21 feet south of the project site in Huntington Park.
22 And they did their analysis and determined that
23 within the context of the overall visual
24 sensitivity, a low to moderate visual change would
25 be perceived at the key observation point. And

1 that the unabated tower plume would not cause
2 significant adverse visual impact.

3 So the issue is resolved through the
4 conditions.

5 HEARING OFFICER GEFTER: Okay, thank
6 you. In the staff assessment there originally was
7 a different KOP, and then it was changed. And so
8 the analysis was based on the revised KOP?

9 MR. PFANNER: Correct.

10 HEARING OFFICER GEFTER: And then we saw
11 a simulation in the slide show previously which
12 showed a worst case scenario of a plume over that
13 field. And what is your -- is that worst case?
14 That means that's as big as it's going to get?
15 What is the worst case analysis?

16 MR. KNIGHT: This is Eric Knight.

17 HEARING OFFICER GEFTER: Mr. Knight.

18 MR. KNIGHT: Actually what we
19 determined, we provided information on the size of
20 the reasonable worst case plume, the plume that
21 would occur 10 percent of the time. We provided
22 that information to the applicant to prepare a
23 simulation from that new KOP located at East 58th
24 Street.

25 When we received that simulation it

1 looked awfully large. And based on the distance
2 from that KOP to the project site, the size of
3 that plume, using a 3-D model, also relying on
4 some information from the City, verified by us by
5 the distance, we determined that plume was
6 actually simulated incorrectly. And that plume
7 was substantially oversized.

8 So, the simulation that appears in the
9 staff assessment we believe accurately represents
10 the size of the plume, of those dimensions, as
11 seen from that location.

12 HEARING OFFICER GEFTER: Okay.

13 COMMISSIONER PERNELL: If I understand
14 you correctly, the plume that we seen in the
15 visual is oversized?

16 MR. KNIGHT: Yeah, if we're talking --

17 COMMISSIONER PERNELL: In the worst
18 case?

19 MR. KNIGHT: If we're talking about a
20 reasonable worst case plume, which staff defines
21 as a plume that occurs 10 percent of the daytime,
22 no rain, no fog hours.

23 Plumes will be larger than that size,
24 but they might occur only 1 percent of the time, 2
25 percent. We didn't think that's reasonable to

1 simulate that plume.

2 So, the plume that's shown in the
3 picture that was on the screen was supposedly a
4 plume, I think, -- tell you the size here -- the
5 plume was supposed to be -- the plume information
6 we provided the applicant, this is through a data
7 request, was supposed to be 220 feet in length,
8 233 feet in height, and a diameter of 234 feet.

9 So when the simulation came back it
10 didn't look right to us. It looked too big. So,
11 based on the distance -- the viewing location on
12 East 58th would be about 3000 feet away from the
13 point of the plume, the cooling tower. And the
14 plume is only 220 feet long, and 233 feet tall.

15 There's a building obscuring the
16 majority of that plume. What we did is we did
17 line-of-sight diagrams which showed us that that
18 plume would just be barely sticking above the top
19 of that warehouse that's shown in the middle-
20 ground of that view. That plume that the
21 applicant simulated essentially assumes almost
22 like a viewing location, maybe 100, 200 feet away
23 from that KOP. As you move farther away things
24 look smaller.

25 COMMISSIONER PERNELL: All right, the

1 bottomline is the plume will actually be smaller
2 from a visual standpoint than what we seen on the
3 slide?

4 MR. KNIGHT: Yeah. I would say --

5 PRESIDING MEMBER BOYD: More like a 1
6 percent plume?

7 MR. KNIGHT: Yes. And I would ask the
8 Committee to look at staff assessment figure 7.

9 HEARING OFFICER GEFTER: Can you give us
10 a page number?

11 MR. KNIGHT: Well, it's in the visual
12 resources section, and all the figures are at the
13 end of --

14 HEARING OFFICER GEFTER: All right, it's
15 section 4.12.

16 MR. KNIGHT: It would be 4.12, the pages
17 aren't numbered, but it's after 4.12-18.

18 HEARING OFFICER GEFTER: And which --

19 MR. KNIGHT: Actually it's the last
20 visual resources figure.

21 HEARING OFFICER GEFTER: It's the last
22 picture?

23 MR. KNIGHT: Yes, figure 7.

24 COMMISSIONER PERNELL: From looking at
25 this, my glasses is foggy, I don't see it.

1 PRESIDING MEMBER BOYD: Behind the
2 telephone pole --

3 (Laughter.)

4 MR. KNIGHT: Yeah, it looks like a
5 cloud.

6 COMMISSIONER PERNELL: Oh, I see, I'm
7 looking --

8 PRESIDING MEMBER BOYD: A white --

9 HEARING OFFICER GEFTER: Oh, yeah.

10 COMMISSIONER PERNELL: -- that's a water
11 tower.

12 HEARING OFFICER GEFTER: Yeah, yeah,
13 it's on the left.

14 COMMISSIONER PERNELL: Okay.

15 MR. KNIGHT: Compare that to the image
16 you saw on the screen. Those are supposed to be
17 the --

18 PRESIDING MEMBER BOYD: This is a 1
19 percent plume.

20 MR. KNIGHT: Well, this is a 10 percent
21 plume.

22 HEARING OFFICER GEFTER: This is a --

23 PRESIDING MEMBER BOYD: Oh, this is a
24 real 10 percent?

25 MR. KNIGHT: Yeah, this is, in staff's

1 view, the reasonable worst case plume.

2 HEARING OFFICER GEFTER: What we need
3 for the evidentiary hearing, again, would be some
4 supplemental testimony based on what Mr. Knight
5 has just explained to us. Because again, we
6 wouldn't -- as the staff assessment stands right
7 now, it doesn't explain the difference between the
8 applicant's simulation and staff's simulation,
9 and --

10 MR. KNIGHT: Actually on page 4.12-11.

11 HEARING OFFICER GEFTER: Dash 11, all
12 right.

13 MR. KNIGHT: Yeah, where we talk about
14 visual resources figure 7. It does explain,
15 better than I did today, what we determined when
16 we received that simulation from the applicant in
17 response to our data request.

18 HEARING OFFICER GEFTER: Thank you for
19 that, okay. So this -- actually this paragraph
20 explains what you just summarized for us?

21 MR. KNIGHT: Yes.

22 HEARING OFFICER GEFTER: So we don't
23 need anything additionally.

24 MR. KNIGHT: Well, unless after you read
25 it you're still confused.

1 HEARING OFFICER GEFTER: Right. That's
2 page 4.12-11. There's a paragraph that explains
3 visual resources figure 7. And that actually is
4 the key issue on visual, was the --

5 MR. KNIGHT: Yeah, the KOP that was
6 referred to on East 53rd Street, that was the KOP
7 that was identified during prefiling. We always
8 go out with the applicant, identify locations.

9 And subsequent to the filing of the --
10 or the preparation of the AFC, there was a
11 building built right in front of that location.
12 So, you could no longer see the project. And,
13 actually it was under construction at the time
14 that we went out there. But, --

15 HEARING OFFICER GEFTER: Okay, and
16 that's why you switched to the KOP that you used
17 in this --

18 MR. KNIGHT: Yeah, it was determined, it
19 was a line-of-sight diagram that you wouldn't even
20 be able to see that plume from that location
21 because of that building is so close to the
22 residential viewers. So you had to back away from
23 the project site a bit. And that's where
24 identified that location on East 58th Street.

25 HEARING OFFICER GEFTER: And you also

1 indicate in the staff assessment how far East 58th
2 Street site is from the project?

3 MR. KNIGHT: Yeah, it's also on page 11.
4 It's approximately 3000 feet away.

5 HEARING OFFICER GEFTER: Right. So it
6 seems to me that this paragraph basically
7 addresses the issue that you were trying to
8 resolve and explains it to us.

9 MR. KNIGHT: Yes.

10 HEARING OFFICER GEFTER: All right,
11 we'll leave that as it is. And I'll let the
12 parties know after we look at it whether we need
13 more information.

14 MR. KNIGHT: Okay.

15 HEARING OFFICER GEFTER: All right,
16 thank you very much.

17 COMMISSIONER PERNELL: Thank you.

18 HEARING OFFICER GEFTER: All right. You
19 know, before we move on, I did ask the parties
20 about waste management, and everyone is in
21 agreement that there are no issues.

22 However, I found a question on waste.
23 And I wanted to bring that up right now before we
24 go further.

25 On page 4.13 of the staff assessment,

1 -4, in the waste management section there is a
2 statement that there is a potential for soil
3 contamination from diesel fuel release. And that
4 the applicant was proposing mitigation to deal
5 with that.

6 And I didn't see any discussion of what
7 the mitigation is with respect to soil
8 contamination from diesel fuel release. Basically
9 I understand there was a cleanup, but the staff
10 assessment says that there's still a potential.
11 And that they were satisfied with the applicant's
12 mitigation plan. But I didn't see anything in
13 here that describes the mitigation plan.

14 And essentially my question is whether
15 condition Waste-2 is intended to incorporate a
16 mitigation measure, but it's not stated. So we'll
17 start with the applicant on waste on that
18 question.

19 MR. ABUEG: As said, it's been cleaned
20 up and we do have a final report from
21 (inaudible) --

22 HEARING OFFICER GEFTER: Okay.

23 MR. ABUEG: -- and the Health
24 Department, I believe has written up a report.
25 It was approved that the site has been cleaned up.

1 We can make that report -- submit that report if
2 that helps.

3 HEARING OFFICER GEFTER: And does staff
4 have any explanation for why the staff assessment
5 is concerned about the possibility of diesel fuel
6 contamination in the soil? Or it was --

7 MR. PFANNER: I think it may have been
8 an early identified issue that got resolved later.

9 HEARING OFFICER GEFTER: So the
10 applicant will submit that report to us and
11 provide written testimony explaining that the
12 statement that appears in the staff assessment was
13 written earlier, and it has been resolved at this
14 point. And perhaps you can work with staff to get
15 an agreement on that, so that we don't have to
16 have a big --

17 MR. ABUEG: We will.

18 HEARING OFFICER GEFTER: -- issue
19 regarding that particular statement.

20 And then with respect to the waste
21 condition 2, it talks about if any contaminated
22 soil is unearthed during excavation, you know,
23 then there would be various measures taken.

24 Would this subsume, the way this
25 condition is written would that subsume any

1 potential diesel contaminated soils, if, in fact,
2 it is encountered, staff?

3 MR. PFANNER: I would have to consult
4 with the technical section writer on this and work
5 with you.

6 HEARING OFFICER GEFTER: So, again, then
7 on the waste issue, we'll expect written testimony
8 addressing my question and hopefully it will be
9 staff and applicant submitting something that they
10 agreed to, and we can move on.

11 And the document that you mentioned, the
12 report, if that's docketed and you can also submit
13 it as, offer it as an exhibit that we can look at
14 at evidentiary hearing.

15 MR. FRESCH: We will.

16 HEARING OFFICER GEFTER: Thank you. So,
17 the issue in traffic and transportation which I
18 don't believe is an issue, but it's a question I
19 have. And perhaps we could try to work with that,
20 too.

21 The section if 4.10-16 in the staff
22 assessment. On that page there is -- staff
23 indicates a concern that the route proposed for
24 the transportation of hazardous materials that
25 appeared in the AFC would be a very heavily

1 traveled area, and staff was concerned that it
2 would not be -- it may raise the probability of
3 any kind of accident or release. And therefore
4 staff is recommending a different route.

5 And it says the applicant has agreed to
6 review the route, but it doesn't go any farther
7 and tell us what happened. And there's no
8 condition that I saw that actually described the
9 route that staff thinks is a preferable route.

10 Has there been an agreement on the
11 appropriate route? And I ask the applicant.

12 DR. NAND: Can I respond to that? The
13 route will be finalized once we finalize the
14 vendor who will supply the aqueous ammonia.

15 HEARING OFFICER GEFTER: I'm sorry?

16 DR. NAND: The route, transportation
17 route will be finalized once the City decides that
18 who will supply the aqueous ammonia. So that's
19 what, you know, it said that we will review and
20 we'll take this into account, because we have not
21 finalized who will supply the aqueous ammonia.
22 That's the point, you know.

23 HEARING OFFICER GEFTER: Why does it
24 matter who supplies it? Don't they all deliver
25 them in the same type of truck?

1 DR. NAND: No, the route depends from
2 which part of the City, from where they will come.

3 HEARING OFFICER GEFTER: Um-hum.

4 DR. NAND: So that's why this we have,
5 when we are writing this application, we talk with
6 one of the vendors who supplies, and we talk to
7 them. They said that most probably will take this
8 route, you know. But this is not set then that he
9 will supply the aqueous ammonia. That's why we
10 said we will let you know once the vendor is
11 decided, and we will select a route in
12 consultation with the -- at that time we'll decide
13 the route.

14 HEARING OFFICER GEFTER: Does the vendor
15 come from within the City?

16 DR. NAND: No.

17 HEARING OFFICER GEFTER: No. They're
18 coming from outside the City, so they're coming
19 down a freeway and they'll be getting off.

20 DR. NAND: Yeah.

21 HEARING OFFICER GEFTER: So why does it
22 matter who the vendor is?

23 MR. FRESCH: I believe you want to know
24 the safest route that they will take --

25 HEARING OFFICER GEFTER: Yes.

1 MR. FRESCH: We'll work with staff on
2 establishing what the best route is, regardless of
3 who the vendor may be.

4 HEARING OFFICER GEFTER: Right. And
5 also --

6 MR. PFANNER: Make it as a condition?

7 HEARING OFFICER GEFTER: And we need a
8 condition. Thank you.

9 (Pause.)

10 HEARING OFFICER GEFTER: On the -- we're
11 going to leave EJ to sort of the end. I had a
12 couple of other questions that are little
13 questions that perhaps staff could clear up for
14 me.

15 I'm sure this is just an editing issue,
16 but in several different sections there are, for
17 example at end of project description, you
18 describe the sewer line and the gas line as being
19 both 1300 feet. And the reclaimed water line is
20 1.8 miles. And that's also what Mr. Abueg said,
21 so that's consistent.

22 But in several other sections you have
23 different numbers for the linears. And I wanted
24 to make that clear as to which numbers staff is
25 including for the project description.

1 For example in, I guess in the traffic
2 and transportation section, they're using
3 different distances for the linears. So, at some
4 point, perhaps in your, you know, --

5 MR. PFANNER: We'll check to make sure
6 it's consistent throughout.

7 HEARING OFFICER GEFTER: -- check and
8 make sure it's consistent.

9 MR. PFANNER: Okay.

10 HEARING OFFICER GEFTER: And indicate
11 that in your prepared testimony or supplemental
12 testimony prior to evidentiary hearing how staff
13 defines the project.

14 And then the other question, again for
15 staff, is in the efficiency section of the staff
16 assessment it seems to be inconsistent where
17 they're talking about the efficiency level that
18 the CTGs will be producing. And I'm going to turn
19 to page 5.5-4 where -- perhaps I'm just misreading
20 it, but if you could explain it to me. 5.5-4.

21 All right, at the top of the page it
22 says that the two CTGs, each with an output of
23 approximately 50 MVA, I'm not sure what that is,
24 with a maximal nominal output of 58.8 MVA. What
25 does that refer to?

1 MR. ABUEG: MVA is another unit of
2 power.

3 HEARING OFFICER GEFTER: Yeah,
4 actually --

5 MR. ABUEG: -- two components --

6 HEARING OFFICER GEFTER: Right, right.
7 Actually I see what I'm doing here. We're
8 actually in TSE, and that was a different question
9 I had. But I did -- all right, I'm sorry. I just
10 turned us to the wrong page. Okay. MVA is a
11 different --

12 MR. ABUEG: Yeah, MVA is the combination
13 of both the real and reactive power, from
14 megawatts, it's where we see what we pay for
15 reactive power is basically what we call wasted
16 power.

17 HEARING OFFICER GEFTER: All right.
18 Okay. All right, thank you. And so that is still
19 consistent with how you described the nominal
20 generating output?

21 MR. ABUEG: That's correct. What we're
22 measuring is the megawatts; we don't measure the
23 MVA. We basically do not measure the reactive
24 power component.

25 HEARING OFFICER GEFTER: Thank you,

1 okay, that was just something I needed cleared up.
2 With respect to my question on efficiency I had
3 given you the wrong page number, and that's 5.3-2.
4 These page numbers are very confusing. I wish we
5 had a better system, but anyway, we're at 5.3-2.

6 Where it talks about the energy use
7 efficiency in the middle of the page, it says that
8 the full load efficiency is approximately 51.58
9 without duct burning, and 49.33 with duct burning.
10 And then on the, let's see I think the page -4 of
11 that section, they talk about a 54 percent
12 efficiency. So I'm confused as to what number
13 you're using here to talk about what the
14 efficiency level is.

15 Are you following where I'm pointing
16 this out?

17 MS. ICHIEN: Ms. Gefter, on page -4
18 which number is it that you --

19 HEARING OFFICER GEFTER: Oh, all right,
20 it's under natural gas burning technologies. It's
21 the third paragraph.

22 MR. PFANNER: So we're checking the
23 consistency between page 5.3-2 and 5.3-4?

24 HEARING OFFICER GEFTER: Right. It also
25 refers at the very very top of page 5.3-4, it also

1 says 54 percent efficiency at the very top of the
2 page. And so that seems to be inconsistent with
3 page 5.3-2.

4 MR. FRESCH: We'll work with staff on
5 getting the nominal rating of these Alston GTX
6 100s consistently characterized.

7 HEARING OFFICER GEFTER: Yes, that's
8 what we need. So, again, if you can provide that
9 information to us at the evidentiary hearing that
10 would clear it up for us. Thank you.

11 All right, we're going to go to cultural
12 and then socio. So on cultural, at the beginning
13 of the process we understood there was some
14 concern about the historic industrial district.

15 MR. PFANNER: Yes, I will try to briefly
16 summarize this. The concern on staff's part was,
17 one, the station A is a historic structure, and it
18 was staff's concern that the entire area is
19 comprised of industrial buildings of a certain
20 era, and it could constitute a historic district.

21 And a cultural resource inventory was
22 conducted. And it concluded that the project area
23 is characterized by industrial and commercial
24 facilities and infrastructure. And that it is
25 potentially eligible for inclusion on the National

1 Register as a historic district.

2 And the next step staff had to assess
3 would the project have a detrimental effect on
4 that. And staff concluded that it would not
5 create an adverse effect on the setting of the
6 historic district, and that it's an appropriate
7 use, given the existing industrial development.
8 And that there would be no adverse effects, and
9 that it would comply with LORS.

10 So it was basically doing that step of
11 the analysis to document that, yes, it could
12 potentially qualify, and that the project would
13 not be detrimental to a historic district.

14 HEARING OFFICER GEFTER: So, at this
15 point I understand that staff is then satisfied?

16 MR. PFANNER: That is correct.

17 HEARING OFFICER GEFTER: I have a
18 question in the cultural section of the FSA on
19 page 4.3-5. Okay, the very last paragraph on that
20 page it says that there's no significant impact to
21 the proposed historic industrial district because
22 the project does not materially impair the
23 district. And that's staff's conclusion.

24 Is the term material impair, is that a
25 standard of the CRHR? Or is that just something

1 that staff says? And if so, it doesn't really
2 explain why it's not a significant impact.

3 So, I wonder if you could expand upon
4 that, --

5 MR. PFANNER: I can look into that and
6 find out.

7 HEARING OFFICER GEFTER: -- find out if
8 that's a standard, or whether staff had another
9 intent for using that language.

10 And the reason I'm asking is because
11 this is the basis for the finding of no
12 significant impact. I just want to know what it
13 means.

14 MR. PFANNER: We will look into that and
15 answer.

16 HEARING OFFICER GEFTER: Yeah, good.
17 Anything else on cultural?

18 MR. PFANNER: No.

19 HEARING OFFICER GEFTER: It also says in
20 the staff assessment that the applicant would be
21 responsible for preserving the building in which
22 the existing diesel -- the old diesel facility
23 exists.

24 What is the applicant's responsibility
25 with respect to maintaining that building?

1 MR. FRESCH: The applicant has formed a
2 nonprofit corporation and has hired a consultant
3 who is going to register the building as a
4 historic landmark. And basically preserve the
5 building and make it available to the public.

6 PBS already did a program about the old
7 diesel structure and its historic significance.
8 So, in keeping with that, it's going to keep the
9 integrity of the building and the equipment inside
10 intact for that objective.

11 HEARING OFFICER GEFTER: Could you
12 provide supplemental testimony to that effect --

13 MR. FRESCH: Yes.

14 HEARING OFFICER GEFTER: -- with respect
15 to cultural? Explain to us what the applicant is
16 planning to do with respect to preserving the
17 building.

18 MR. FRESCH: Yes.

19 COMMISSIONER PERNELL: Does that include
20 retrofit for earthquake safety? Since you're
21 going to have the public viewing it?

22 MR. FRESCH: I'll have to look into the
23 earthquake safety aspects of it. I know at the
24 time the building was built it was pretty well
25 substantially with concrete pilings in 1933. It's

1 quite an engineering --

2 COMMISSIONER PERNELL: Well, if it was
3 built in '33 I'm not sure that it qualifies.

4 MR. FRESCH: Well, we'll look into that.

5 HEARING OFFICER GEFTER: Thank you. I
6 want to go back to another topic real quickly
7 before we get into socio. I'm very sorry it's
8 taking so long.

9 I noted that in the soil and water
10 section two will-serve letters were mentioned.
11 One was to supply the reclaimed water, and another
12 was to receive the wastewater for discharge.

13 Are those will-serve letters in the
14 record? And where are they? Will they be
15 identified for the exhibits?

16 MR. ABUEG: We submitted them in our
17 AFC. We submitted copies of them. So, if we need
18 to, we could reproduce them.

19 HEARING OFFICER GEFTER: If they're part
20 of the AFC what I need is references to where I
21 can find them in the AFC.

22 MR. ABUEG: Okay, we'll identify them.

23 HEARING OFFICER GEFTER: If you could
24 provide those references we'll be able to find it.
25 Okay, thanks.

1 I think now we can go on to
2 socioeconomics and discuss the environmental
3 justice issues.

4 MR. PFANNER: Okay, and again, I will
5 make this brief. The key component of the
6 environmental justice project component is the
7 public outreach. And the Public Adviser's Office
8 stepped through the details of the extensive
9 outreach project that was conducted on this.

10 The concern involving the environmental
11 justice screening analysis was on the air quality
12 topic that the staff assessment did go through ten
13 areas, air hazards, land use, noise, public
14 health, socioeconomic, traffic, transmission line
15 safety and nuisance, visual resources and waste
16 management, concluding in the first staff
17 assessment that there was no environmental justice
18 issues in all categories except for air quality
19 because of the outstanding issue, as was mentioned
20 before.

21 And that if that were to remain a
22 significant impact, it would then be an
23 environmental justice issue. But with the
24 resolution of the FDOC and the air quality
25 mitigation being proposed as in the final

1 addendum, that reduces all impact categories to a
2 less than significant, and compliance with all
3 LORS. So there would therefore be no
4 environmental justice issue.

5 And the concern being that the six-mile
6 radius standard used for identifying people of
7 color of greater than 50 percent of the population
8 is met in this area. So, environmental justice,
9 throughout the project, has been a concern. And
10 that each category evaluated and concluded in the
11 final addendum that there is no environmental
12 justice issue.

13 COMMISSIONER PERNELL: A couple of
14 questions on that. I guess one of them is the
15 Public Adviser did a presentation on how many
16 notices that she sent out. Was that in the six-
17 mile radius, or was that within the norm 1000
18 feet, or whatever it is?

19 MR. PFANNER: It would cover a number of
20 the adjacent cities. It did go into Huntington
21 Park, Maywood, Commerce, Bell, so those cities are
22 definitely --

23 COMMISSIONER PERNELL: But all of those
24 cities are -- I mean if I can visualize the area,
25 I've been down there before, all of those cities

1 are right close to each other or next to each
2 other.

3 MR. PFANNER: They're adjacent to the
4 city, correct.

5 COMMISSIONER PERNELL: Right. So --

6 MR. PFANNER: I do not believe that a
7 six-mile circle was made, and every city within
8 the six-mile was identified as --

9 COMMISSIONER PERNELL: No, not the
10 cities, but the project. Six-mile radius of the
11 project in terms of notification.

12 MR. PFANNER: Right.

13 COMMISSIONER PERNELL: My question is --

14 MR. PFANNER: I do not --

15 COMMISSIONER PERNELL: -- do you know
16 whether or not that's --

17 MR. PFANNER: I don't know whether or
18 not every city that falls within a six-mile radius
19 of the project was contacted.

20 MR. EDWARDS: If I may, Dale Edwards of
21 staff of the Energy Commission, the Media and
22 Communications Office also plays a part in
23 notifying the public about what's going on in
24 their neighborhood as far as new proposed
25 projects.

1 Early on in every siting case they put
2 together a project description, an information
3 package, if you will, that they send out. Well,
4 first they identify in the area of the project
5 what are the media outlets, whether it be radio,
6 television, newspaper, and provide this
7 information packet to all those media for them to
8 put out to the public.

9 And this covers an area that's much
10 bigger than the six-mile radius, in fact. This is
11 not a requirement upon those media that they, in
12 fact, publish or distribute this information in
13 whatever form they do that. But it is a part of
14 our process to notify the public in every case for
15 a siting case.

16 And that did occur in this case.

17 COMMISSIONER PERNELL: Okay. And I
18 don't want to belabor this, I just, you know, in
19 the evidentiary hearings, you know, we don't want
20 any surprises. So I guess my question is whether
21 or not all of the, you know, i's have been dotted
22 and t's have been crossed as it relates to
23 socioeconomics, given the population and the
24 income level of the various communities that are
25 involved.

1 And that's a yes or no or I don't know.
2 You know, I'm not looking for any definitive
3 answers, I'm just saying that we want to be sure
4 that we cover those areas.

5 MR. EDWARDS: Right. I think under
6 the -- and Arlene can speak to this to a degree,
7 but under, in essence, the existing law or policy
8 as it relates to EJ, we have certainly dotted all
9 the i's as far as getting the information out to
10 the public in a variety of ways. A combination of
11 the Media Office and the Public Adviser's Office,
12 as well as the Siting Division Staff's efforts.

13 And being available for communication
14 with everybody who participates in our workshops
15 or calls us on the telephone in a variety of
16 modes.

17 But when you talk about all the i's
18 being crossed, that's like asking has everybody
19 been notified. And that's not going to happen in
20 a -- we can't guarantee that.

21 COMMISSIONER PERNELL: Right, so have
22 there been any responses from any of the minority
23 communities or lower income communities as relates
24 to the project?

25 MR. EDWARDS: I think, to my knowledge,

1 the only -- and we can ask others to answer this,
2 as well, because I don't have total knowledge on
3 this particular case on this, but CBE is the only
4 group that is, in essence, representing minority
5 populations.

6 MR. FRESCH: Excuse me, Commissioner
7 Pernell. The City of Huntington Park also
8 conducted their own hearing on our project, which
9 we attended and testified at. And the Communities
10 for a Better Environment for also there.

11 And then the Huntington Park's Mayor
12 wrote a letter to the Air Quality District
13 expressing his concerns. And the Air Quality
14 District responded to that.

15 And at our air quality workshop in
16 October of 2002 the representative from
17 Communities for a Better Environment elected not
18 to become an intervenor. He was in attendance at
19 that meeting that we conducted at our own City
20 Hall Chambers with the CEC Staff.

21 COMMISSIONER PERNELL: Okay.

22 MR. FRESCH: So as far as we know, the
23 applicant also took a lot of the materials the
24 Public Adviser's Office was distributing, and
25 threw it in our own Vernon Journal which goes out

1 to the 1500 businesses and the employees. So it
2 fanned out in a lot of different directions over
3 the past several months that this process has been
4 going on.

5 And then we post in our own means of
6 media outlet when we were conducting the hearings
7 on our site, in addition to parallel with what the
8 CEC Staff has been doing.

9 Because being a City applicant we're
10 more sensitive than, I guess, other applicants to
11 make sure that all the other individuals and
12 residents and other governments are cognizant of
13 what it is we've proposed to do. And they're
14 supportive of it.

15 COMMISSIONER PERNELL: Thank you.

16 HEARING OFFICER GEFTER: Thank you. A
17 question with respect to the analysis performed by
18 staff.

19 Staff used the 2000 census to determine
20 that in fact there is a high percentage of
21 minority and people of color residents in the
22 surrounding community, but they used the 1990
23 census to find out about the income levels of the
24 community.

25 And my question is why was the 1990

1 census used. It's 12 years old and is not -- it
2 must be rather stale at this point.

3 MR. EDWARDS: I think when we first did
4 our analysis that was the only available analysis,
5 even though the 2000 census had been released.
6 The income portion of that was not in a form that
7 we could access electronically.

8 Since that time we are able to get, and
9 we have been using 2000 census across the board
10 for income and population.

11 And we can certainly, by the point of
12 the hearing, provide that information as a
13 supplement in some form to make sure our data is
14 up to current specs in all.

15 And I would go on to say that I don't
16 expect, based on what I've seen in other cases,
17 that the data that we're going to see is going to
18 change our analysis in any way. Certainly since
19 we have a -- what we usually do under EJ anyway is
20 look, do we have a low income or racial population
21 that exceeds 50 percent. And we already had that
22 on the racial side. And so we were already doing
23 a full-blown EJ analysis anyway. So whatever the
24 finding on the low income side will not change the
25 facts of the case.

1 HEARING OFFICER GEFTER: Okay, well,
2 we'd like to see the data from the 2000 --

3 MR. PFANNER: And include that, right,
4 for the evidentiary hearings.

5 PRESIDING MEMBER BOYD: Yeah, bring the
6 record up to date.

7 HEARING OFFICER GEFTER: Thank you.
8 Anything else on environmental justice and
9 socioeconomics? All right.

10 I think at this point we've covered all
11 the topics. And what we'll expect before the
12 evidentiary hearing is the answers to the
13 questions that were raised today and the various
14 topics that we discussed.

15 And we expect testimony on project
16 description and on air quality, definitely.

17 If we can get agreement on all the other
18 topics that we discussed today, then they may be
19 also submitted by declaration in the supplemental
20 testimony that's submitted.

21 But I will indicate, you know, in the
22 hearing order the topics where there is testimony
23 pending, and therefore we will identify those
24 topics. And we can have -- if it turns out that
25 we need a live person there to testify, we can

1 discuss that prior to the evidentiary hearing.

2 But I would assume that if everyone's in agreement
3 we won't need that.

4 So, what we need to move on to is
5 discussing our schedule. And we've discussed with
6 the parties before the prehearing conference that
7 Monday, February 10th is an agreeable date. The
8 Commissioners are available that date, and we
9 would confirm that today, if there's no objection?

10 MR. FRESCH: No. Good.

11 HEARING OFFICER GEFTER: And we are
12 looking at a timeline of approximately starting at
13 12:30 for a site visit. Commissioner Pernell was
14 not available for the informational hearing and
15 site visit, and would like to see the facility and
16 the area surrounding the site. So, we would like
17 to schedule a site visit at 12:30 p.m. that day.

18 And assuming that it only takes an hour
19 or so to do the site visit, we would begin the
20 evidentiary hearing at 1:30. And we appreciate
21 your hosting us again at the City Hall in the City
22 of Vernon.

23 And we're going to have the hearing
24 there so that if there are any members of the
25 public, any people from the adjacent cities, if

1 CBE wants to attend, and any other individuals are
2 interested, any agency representatives, they can
3 all attend at the hearing in Vernon.

4 So, would that timeline be agreeable to
5 everyone, to begin the site visit at 12:30 and the
6 hearing at 1:30?

7 MR. FRESCH: It's agreeable to the
8 applicant.

9 COMMISSIONER PERNELL: Given the number
10 of uncontested items, is it your expectation that
11 we can get this done in the time allotted, one
12 day, one hearing?

13 PRESIDING MEMBER BOYD: The afternoon --

14 HEARING OFFICER GEFTER: Oh, yes, we --

15 COMMISSIONER PERNELL: Or half a day,
16 maybe?

17 HEARING OFFICER GEFTER: A half a day.
18 I would expect that we should be done no later
19 than 5:00 that day.

20 COMMISSIONER PERNELL: Great.

21 HEARING OFFICER GEFTER: Okay. So,
22 we've talked about what additional information is
23 needed. And that will be indicated in the hearing
24 order.

25 We also could talk about the briefing

1 schedule, which would be after the evidentiary
2 hearing. In your filings that you would submit to
3 us prior to the evidentiary hearing, perhaps staff
4 and the applicant could discuss what kind of
5 briefing schedule you would like to use.

6 It would be fine with us if staff filed
7 a reply brief and you don't need to file
8 concurrent briefs. If the applicant wants to file
9 an opening brief with proposed findings and
10 conclusions, staff would have an opportunity to
11 file a reply brief to that.

12 But we can, you know, talk about that at
13 the conclusion of evidentiary hearing. But what
14 I'd like to see is a proposed schedule prior to
15 the hearing so that we could talk about it at the
16 hearing.

17 MR. FRESCH: That's fine with us.

18 HEARING OFFICER GEFTER: Okay.

19 MS. ICHIEN: Is there a time by which
20 you want the proposed schedule submitted?

21 HEARING OFFICER GEFTER: Right, we're
22 going to do that. That would be indicated in the
23 hearing order. The hearing order should be out
24 probably the first of next week. It should give
25 you plenty of time to get the information in to us

1 by the deadline.

2 And I haven't determined what date that
3 will be. It looks like we probably -- I'll give
4 you an estimate of the date, which would be
5 probably a week before the hearing, which I
6 believe is February 3rd, a Monday. It most likely
7 will be that date, but I want to look at the
8 calendar again, double-check.

9 So that gives everyone about a week to
10 look at each other's filings. But in this case
11 everything should be agreed to, so you will know
12 what your filings are.

13 Okay, I think that we've covered all of
14 our housekeeping and we're about ready to
15 conclude. I want to ask the Commissioners if they
16 have any other comments.

17 PRESIDING MEMBER BOYD: No further
18 comments. I appreciate all the work that staff
19 and the parties have done. It's been a long time
20 since the first hearing, but in the timeframe
21 you've knocked down, apparently at this moment,
22 all the hurdles with the clarification called for
23 today.

24 So, my thanks and congratulations to all
25 for solving those issues. And I look forward to

1 an interesting, educational and reasonably brief
2 final hearing in the City of Vernon.

3 COMMISSIONER PERNELL: I would just echo
4 what the Presiding Member has said, Commissioner
5 Boyd. And certainly there's a lot of work that
6 has been done on this already. It's not every day
7 that we enter into these types of projects with
8 most, if not all, of the topic areas agreed to and
9 uncontested.

10 So, thank you for your work up front, it
11 certainly makes our easier on the back end.

12 HEARING OFFICER GEFTER: Okay, thank you
13 very much. The hearing is adjourned.

14 (Whereupon, at 12:00 noon, the hearing
15 was adjourned.)

16 --o0o--

CERTIFICATE OF REPORTER

I, PETER PETTY, an Electronic Reporter,
do hereby certify that I am a disinterested person
herein; that I recorded the foregoing California
Energy Commission Hearing; that it was thereafter
transcribed into typewriting.

I further certify that I am not of
counsel or attorney for any of the parties to said
hearing, nor in any way interested in outcome of
said hearing.

IN WITNESS WHEREOF, I have hereunto set
my hand this 20th day of January, 2003.

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